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Calendar No. 283

113TH CONGRESS
1ST SESSION

S. 1271

[Report No. 113–131]

To direct the President to establish guidelines for United States foreign assistance programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2013

Mr. RUBIO (for himself, Mr. CARDIN, Mr. ISAKSON, Mr. TESTER, Ms. WARREN, Mr. KIRK, Mr. JOHANNS, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

DECEMBER 20, 2013

Reported by Mr. MENENDEZ, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To direct the President to establish guidelines for United States foreign assistance programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~**SECTION 1. SHORT TITLE.**~~

~~This Act may be cited as the "Foreign Aid Transparency and Accountability Act of 2013".~~

~~SEC. 2. GUIDELINES FOR UNITED STATES FOREIGN ASSISTANCE PROGRAMS.~~

~~(a) PURPOSE.—The purpose of this section is to evaluate the performance of United States foreign assistance and its contribution to policy, strategies, projects, program goals, and priorities undertaken by the Federal Government, to foster and promote innovative programs to improve effectiveness, and to coordinate the monitoring and evaluation processes of Federal departments and agencies that administer foreign assistance.~~

~~(b) ESTABLISHMENT OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the President shall establish guidelines regarding the establishment of measurable goals, performance metrics, and monitoring and evaluation plans that can be applied with reasonable consistency to United States foreign assistance. Such guidelines shall be established according to best practices of monitoring and evaluation studies and analyses.~~

~~(c) OBJECTIVES OF GUIDELINES.—~~

~~(1) IN GENERAL.—The guidelines established under subsection (b) shall provide direction to Federal departments and agencies that administer United States foreign assistance on how to develop the complete range of activities relating to the monitoring of resources, the evaluation of projects, the~~

~~evaluation of program impacts, and analysis that is necessary for the identification of findings, generalizations that can be derived from those findings, and their applicability to proposed project and program design.~~

~~(2) OBJECTIVES.—Specifically, the guidelines shall provide direction on how to achieve the following objectives for monitoring and evaluation programs:~~

~~(A) Building measurable goals, performance metrics and monitoring and evaluation into program design, to be tracked against an established baseline at the outset, including the provision of sufficient program resources to conduct monitoring and evaluation.~~

~~(B) Disseminating guidelines for the development and implementation of monitoring and evaluation programs to all personnel, especially in the field, who are responsible for the design, implementation, and management of foreign assistance programs.~~

~~(C) Developing a clearinghouse capacity for the collection and dissemination of knowledge and lessons learned that serve as benchmarks to guide future programs for United~~

~~States development professionals, implementing partners, the international aid community, and aid recipient governments, and as a repository of knowledge on lessons learned.~~

~~(D) Distributing evaluation reports internally and making this material available online to the public. Furthermore, providing a summary of each evaluation, including a description of the evaluation methodology, and key findings and recommendations made in the evaluation, to the public online in a fully searchable form within 90 days after the completion of the evaluation. Any material made available online pursuant to this subparagraph may not include any classified or proprietary information of nongovernmental organizations, contractors, or private sector clients.~~

~~(E) Establishing annual monitoring and evaluation agendas and objectives.~~

~~(F) Applying rigorous monitoring and evaluation methodologies to focus on learning, accountability, and policymaking, choosing from among a wide variety of qualitative, quantitative, summative, and formative methods common in the field of social scientific inquiry,~~

~~including impact evaluations, a simple grading system providing a clear evaluation of outcomes, and analysis of project logic that includes inputs, activities, outputs, intermediate outcomes, and end outcomes.~~

~~(G) Partnering with the academic community, implementing partners, and national and international institutions that have expertise in monitoring and evaluation and analysis when such partnerships will provide needed expertise or will significantly improve the evaluation and analysis.~~

~~(H) Developing and implementing a training plan for aid personnel on the proper conduct of monitoring and evaluation programs.~~

~~(I) Providing relevant and useful evaluation questions that meet the needs of decision-makers, an appropriate and feasible design for the evaluation questions, and criteria that permit objective assessment and valid conclusions on the evaluation questions.~~

~~(J) Ensuring sufficient, credible, and reliable measures and data in the evaluation of the effectiveness of foreign assistance programs, in-~~

~~cluding an assessment of assumptions and limitations in such evaluations.~~

~~(K) Ensuring that generally accepted standards such as independence, professional judgment, competence, and quality control and assurance are followed in the monitoring and evaluation of programs.~~

~~(d) IMPLEMENTATION OF GUIDELINES.—Beginning not later than one year after the date on which the President establishes the guidelines under subsection (b), the head of each Federal department or agency that administers United States foreign assistance shall administer the foreign assistance in accordance with the guidelines.~~

~~(e) PRESIDENTIAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report that contains a detailed description of the guidelines that have been developed on measurable goals, performance metrics, and monitoring and evaluation plans for United States foreign assistance programs established under this section. The report shall be submitted in unclassified form to the maximum extent possible, but may contain a classified annex.~~

~~(f) IMPLEMENTATION NOT REQUIRED FOR CERTAIN SECURITY SECTOR ASSISTANCE.—~~

~~(1) IN GENERAL.—The Secretary of State shall not be required to administer any United States foreign assistance program relating to United States security sector assistance in accordance with the guidelines established under this section if the Secretary of State makes a determination that the administration of such program in accordance with the guidelines would be detrimental to the national interests of the United States.~~

~~(2) BRIEFINGS OR REPORT.—The Secretary of State shall provide briefings or submit a written report to the appropriate congressional committees explaining any determination made under paragraph (1). Any such report may be submitted to the appropriate congressional committees in classified form.~~

~~(g) COMPTROLLER GENERAL REPORTS.—The Comptroller General of the United States shall—~~

~~(1) not later than one year after the date of the enactment of this Act, submit to the appropriate congressional committees a report that contains an analysis of the actions that the major Federal departments and agencies that administer United States foreign assistance have taken to ensure that United States foreign assistance program evaluation is planned, conducted, and utilized effectively;~~

~~(2) not later than three years after the date of the enactment of this Act, submit to the appropriate congressional committees a report that contains an analysis of—~~

~~(A) the guidelines established pursuant to subsection (b); and~~

~~(B) the implementation of the guidelines by the major Federal departments and agencies that administer United States foreign assistance; and~~

~~(3) not later than 5 years after the date of the enactment of this Act, and biennially thereafter for 8 years, submit to the appropriate congressional committees a report that contains an analysis of the implementation of the guidelines by the major Federal departments and agencies that administer United States foreign assistance.~~

~~(h) EVALUATION DEFINED.—In this section, the term "evaluation" means, with respect to a United States foreign assistance program, the systematic collection and analysis of information about the characteristics and outcomes of the program and projects under the program as a basis for judgments, to improve effectiveness, and to inform decisions about current and future programming.~~

~~SEC. 3. INTERNET WEBSITE TO MAKE PUBLICLY AVAILABLE COMPREHENSIVE, TIMELY, COMPARABLE, AND ACCESSIBLE INFORMATION ON UNITED STATES FOREIGN ASSISTANCE PROGRAMS.~~

~~(a) PUBLICATION OF INFORMATION.—~~

~~(1) ESTABLISHMENT OF WEBSITE.—Not later than 30 days after the date of the enactment of this Act, the President shall direct the Secretary of State to revise the Department of State's Internet website, "ForeignAssistance.gov", to make publicly available comprehensive, timely, comparable, and accessible information on United States foreign assistance programs.~~

~~(2) INFORMATION SHARING.—The head of each Federal department or agency that administers United States foreign assistance shall, not later than two years after the date of the enactment of this Act, and every 90 days thereafter, provide to the Secretary of State information about the foreign assistance programs carried out by such department or agency.~~

~~(3) UPDATES TO WEBSITE.—The Secretary of State shall publish not later than 2 years after the date of the enactment of this Act and update on a quarterly basis on the "ForeignAssistance.gov"~~

~~website the information provided under paragraph (2).~~

~~(b) MATTERS TO BE INCLUDED.—~~

~~(1) IN GENERAL.—The information described in subsection (a) shall be published on a detailed program-by-program basis and country-by-country basis.~~

~~(2) TYPES OF INFORMATION.—To ensure transparency, accountability, and effectiveness of United States foreign assistance programs, the information described in subsection (a) shall include country assistance strategies, annual budget documents, congressional budget justifications, obligations, expenditures, and reports and evaluations for United States foreign assistance programs and projects under such programs. Each type of information described in this paragraph shall be published or updated on the Internet website not later than 90 days after the date of issuance of the information.~~

~~(3) REPORT IN LIEU OF INCLUSION.—~~

~~(A) HEALTH OR SECURITY OF IMPLEMENTING PARTNERS.—If the head of a Federal department or agency makes a determination that the inclusion of a required item of information on the Internet website would jeopardize~~

~~the health or security of an implementing partner or program beneficiary, the head of the Federal department or agency may provide briefings to the appropriate congressional committees on the item of information or submit to the appropriate congressional committees the item of information in a written report in lieu of including it on the Internet website, along with the reasons for not including it in the database required under this section.~~

~~(B) NATIONAL INTERESTS OF THE UNITED STATES.—If the Secretary of State makes a determination that the inclusion of a required item of information on the Internet website would be detrimental to the national interests of the United States, the Secretary of State shall provide briefings to the appropriate congressional committees on the item of information or submit to the appropriate congressional committees the item of information in a written report in lieu of including it on the Internet website, along with the reasons for not including it in the database required under this section.~~

~~(C) FORM.—Any briefing or item of information provided under this paragraph may be provided in classified form.~~

~~(4) FAILURE TO COMPLY.—If the head of the department or agency fails to comply with the requirements under paragraph (2), the head shall indicate for each required item—~~

~~(A) identification of the reason for not including the information during that quarter;~~

~~(B) a detailed explanation of the reason; and~~

~~(C) the department's or agency's plan and timeline for including the omitted information for the current fiscal year and the following two fiscal years, including milestones, deadlines, prerequisites, and other explanatory information.~~

~~(c) SCOPE OF INFORMATION.—~~

~~(1) IN GENERAL.—The Internet website shall contain the information described in subsection (b) as follows:~~

~~(A) For fiscal year 2013, the information relating to such fiscal year and each of the immediately preceding 2 fiscal years.~~

(B) For fiscal year 2014, the information relating to such fiscal year and each of the immediately preceding 3 fiscal years.

(C) For fiscal year 2015, the information relating to such fiscal year and each of the immediately preceding 4 fiscal years.

(D) For fiscal year 2016, the information relating to such fiscal year and each of the immediately preceding 5 fiscal years.

(2) OLDER INFORMATION.—For fiscal year 2017 and each fiscal year thereafter, the Internet website shall also contain a link to a searchable database available to the public containing information described in subsection (b) relating to fiscal years prior to the immediately preceding 5 fiscal years but subsequent to fiscal year 2010.

SEC. 4. SENSE OF CONGRESS ON IMPLEMENTATION.

It is the sense of Congress that Congress shall take into account the Comptroller General's reports under section 2(f)(2) when making decisions regarding the appropriation of funds for each department or agency that administers United States foreign assistance.

SEC. 5. AVAILABILITY OF FUNDS.

Up to 5 percent of the amounts authorized to be appropriated for a fiscal year for each Federal department

~~or agency for United States foreign assistance programs is authorized to be appropriated to carry out this Act with respect to such programs for such fiscal year.~~

~~SEC. 6. DEFINITIONS.~~

~~In this Act:~~

~~(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—~~

~~(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and~~

~~(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.~~

~~(2) UNITED STATES FOREIGN ASSISTANCE.—The term "United States foreign assistance" means any tangible or intangible item provided by any agency of the United States Government to a foreign country, including any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government, and includes foreign assistance provided by means of gift, loan, sale, credit, or guaranty.~~

~~(3) UNITED STATES SECURITY SECTOR ASSISTANCE.—The term "United States security sector assistance" means the policies, programs, and activities the United States Government employs to engage with foreign partners in the use of force to protect both the foreign state and its citizens at home or abroad, to maintain international peace and security, to contribute to efforts that address common security challenges, and to enforce the law and provide oversight of security institutions and forces, including through helping foreign partners build and sustain the capacity and effectiveness of institutions to provide security, safety, and justice for their people.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Aid Transparency and Accountability Act of 2013".

SEC. 2. GUIDELINES FOR UNITED STATES FOREIGN ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to evaluate the performance of United States foreign assistance and its contribution to policy, strategies, projects, program goals, and priorities undertaken by the Federal Government, to foster and promote innovative programs to improve effectiveness, and to coordinate the monitoring and

evaluation processes of Federal departments and agencies that administer foreign assistance.

(b) ESTABLISHMENT OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the President shall establish guidelines to set measurable goals, performance metrics, and monitoring and evaluation plans that can be applied with reasonable consistency to United States foreign assistance programs.

(c) OBJECTIVES OF GUIDELINES.—

(1) IN GENERAL.—The guidelines established under subsection (b) shall provide direction to Federal departments and agencies that administer United States foreign assistance on how to develop the complete range of activities relating to the monitoring of resources, the evaluation of projects, the evaluation of program impacts, and analysis that is necessary for the identification of findings, generalizations that can be derived from those findings, and their applicability to proposed project and program design.

(2) OBJECTIVES.—Specifically, the guidelines shall provide direction on how to achieve the following objectives for monitoring and evaluation programs:

(A) Building measurable goals, performance metrics and monitoring and evaluation into program design, to be tracked against an established

baseline at the outset, including the provision of sufficient program resources to conduct monitoring and evaluation.

(B) Disseminating guidelines for the development and implementation of monitoring and evaluation programs to all personnel, especially in the field, who are responsible for the design, implementation, and management of foreign assistance programs.

(C) Developing a clearinghouse capacity for the collection and dissemination of knowledge and lessons learned that serve as benchmarks to guide future programs for United States development professionals, implementing partners, the international aid community, and aid recipient governments, and as a repository of knowledge on lessons learned.

(D) Distributing evaluation reports internally and making this material available online to the public. Furthermore, providing a summary of each evaluation, including a description of the evaluation methodology, and key findings and recommendations made in the evaluation, to the public online in a fully searchable form within 90 days after the completion of the evaluation.

Any material made available online pursuant to this subparagraph may not include any classified or proprietary information of nongovernmental organizations, contractors, or private sector clients.

(E) Establishing annual monitoring and evaluation agendas and objectives.

(F) Applying rigorous monitoring and evaluation methodologies to focus on learning, accountability, and policymaking, choosing from among a wide variety of qualitative, quantitative, summative, and formative methods common in the field of social scientific inquiry, including impact evaluations, a simple grading system providing a clear evaluation of outcomes, and analysis of project logic that includes inputs, activities, outputs, intermediate outcomes, and end outcomes.

(G) Partnering with the academic community, implementing partners, and national and international institutions that have expertise in monitoring and evaluation and analysis when such partnerships will provide needed expertise or will significantly improve the evaluation and analysis.

(H) Developing and implementing a training plan for aid personnel on the proper conduct of monitoring and evaluation programs.

(I) Providing relevant and useful evaluation questions that meet the needs of decisionmakers, an appropriate and feasible design for the evaluation questions, and criteria that permit objective assessment and valid conclusions on the evaluation questions.

(J) Ensuring sufficient, credible, and reliable measures and data in the evaluation of the effectiveness of foreign assistance programs, including an assessment of assumptions and limitations in such evaluations.

(K) Ensuring that generally accepted standards such as independence, professional judgment, competence, and quality control and assurance are followed in the monitoring and evaluation of programs.

(d) IMPLEMENTATION OF GUIDELINES.—Beginning not later than one year after the date on which the President establishes the guidelines under subsection (b), the head of each Federal department or agency that administers United States foreign assistance shall administer the foreign assistance in accordance with the guidelines.

(e) PRESIDENTIAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report that contains a detailed description of the guidelines that have been developed on measurable goals, performance metrics, and monitoring and evaluation plans for United States foreign assistance programs established under this section. The report shall be submitted in unclassified form to the maximum extent possible, but may contain a classified annex.

(f) GUIDELINE REQUIREMENT FOR CERTAIN SECURITY SECTOR ASSISTANCE.—

(1) IN GENERAL.—The Secretary of State shall not be required to implement guidelines established under subsection (b) for certain security sector assistance programs to the extent that the President is already taking steps as of the date of the enactment of this Act to implement measures with respect to security sector assistance that are similar to those referred to in this section pursuant to guidance that the President has promulgated.

(2) NOTIFICATION AND BRIEFING REQUIREMENTS.—The Secretary of State shall provide to the appropriate congressional committees a classified or

unclassified briefing describing any such measures being implemented.

(g) COMPTROLLER GENERAL REPORTS.—The Comptroller General of the United States shall—

(1) not later than one year after the date of the enactment of this Act, submit to the appropriate congressional committees a report that analyzes the actions taken by each Federal department and agency that administers United States foreign assistance programs to ensure that the monitoring and evaluation of such programs is planned, conducted, and utilized effectively;

(2) not later than 3 years after the date of the enactment of this Act, submit to the appropriate congressional committees a report that analyzes—

(A) the guidelines established pursuant to subsection (b); and

(B) the implementation of such guidelines by each Federal department and agency that administers United States foreign assistance programs; and

(3) not later than 5 years after the date of the enactment of this Act, and biennially thereafter for 8 years, submit to the appropriate congressional committees a report that analyzes any revisions to the

guidelines established under subsection (b), and the implementation of such guidelines by each Federal department and agency that administers United States foreign assistance programs.

(h) EVALUATION DEFINED.—In this section, the term "evaluation" means, with respect to a United States foreign assistance program, the systematic collection and analysis of information about the characteristics and outcomes of the program and projects under the program as a basis for judgments, to improve effectiveness, and to inform decisions about current and future programming.

SEC. 3. PROVISION OF PUBLIC INFORMATION ON UNITED STATES FOREIGN ASSISTANCE PROGRAMS.

(a) PUBLICATION OF INFORMATION.—

(1) ESTABLISHMENT OF WEBSITE.—Not later than 30 days after the date of the enactment of this Act, the President shall direct the Secretary of State to revise the Department of State's Internet website, "ForeignAssistance.gov", to make publicly available comprehensive, timely, comparable, and accessible information on United States foreign assistance programs.

(2) INFORMATION SHARING.—The head of each Federal department or agency that administers United States foreign assistance shall, not later than

two years after the date of the enactment of this Act, and every 120 days thereafter, provide to the Secretary of State information about the foreign assistance programs carried out by such department or agency.

(3) UPDATES TO WEBSITE.—The Secretary of State shall publish not later than 2 years after the date of the enactment of this Act and update on a semiannual basis on the "ForeignAssistance.gov" website the information provided under paragraph (2).

(b) MATTERS TO BE INCLUDED.—

(1) IN GENERAL.—The information described in subsection (a) shall be published on a detailed program-by-program basis and country-by-country basis.

(2) TYPES OF INFORMATION.—To ensure transparency, accountability, and effectiveness of United States foreign assistance programs, the information described in subsection (a) shall include country assistance strategies, annual budget documents, congressional budget justifications, obligations, expenditures, and reports and evaluations for United States foreign assistance programs and projects under such programs. Each type of information described in this paragraph shall be published or updated on the Inter-

net website not later than 90 days after the date of issuance of the information.

(3) REPORT IN LIEU OF INCLUSION.—

(A) HEALTH OR SECURITY OF IMPLEMENTING PARTNERS.—If the head of a Federal department or agency makes a determination that the inclusion of a required item of information on the Internet website would jeopardize the health or security of an implementing partner or program beneficiary, the head of the Federal department or agency may provide briefings to the appropriate congressional committees on the item of information or submit to the appropriate congressional committees the item of information in a written report in lieu of including it on the Internet website, along with the reasons for not including it in the database required under this section.

(B) NATIONAL INTERESTS OF THE UNITED STATES.—If the Secretary of State makes a determination that the inclusion of a required item of information on the Internet website would be detrimental to the national interests of the United States, the Secretary of State shall provide briefings to the appropriate congressional

committees on the item of information or submit to the appropriate congressional committees the item of information in a written report in lieu of including it on the Internet website, along with the reasons for not including it in the database required under this section.

(C) FORM.—Any briefing or item of information provided under this paragraph may be provided in classified form.

(4) FAILURE TO COMPLY.—If the head of the department or agency fails to comply with the requirements under paragraph (2), the head shall provide to the appropriate congressional committees a briefing indicating for each required item—

(A) identification of the reason for not including the information;

(B) a detailed explanation of the reason; and

(C) the department's or agency's plan and timeline for including the omitted information for the current fiscal year and the following two fiscal years, including milestones, deadlines, prerequisites, and other explanatory information.

(c) SCOPE OF INFORMATION.—

(1) IN GENERAL.—The online publication required by subsection (a) shall, at a minimum, provide the information required by subsection (b)—

(A) in each fiscal year from 2013 through 2016, such information for fiscal years 2011 through the current fiscal year; and

(B) for fiscal year 2017 and each fiscal year thereafter, such information for the immediately preceding five fiscal years in a fully searchable form.

SEC. 4. SENSE OF CONGRESS ON IMPLEMENTATION.

It is the sense of Congress that Congress should take into account the Comptroller General's reports under section 2 in making decisions regarding the appropriation of funds for each department or agency that administers United States foreign assistance.

SEC. 5. AVAILABILITY OF FUNDS.

Up to 5 percent of the amounts authorized to be appropriated for a fiscal year for each Federal department or agency for United States foreign assistance programs is authorized to be appropriated to carry out this Act with respect to such programs for such fiscal year.

SEC. 6. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(2) UNITED STATES FOREIGN ASSISTANCE.—The term "United States foreign assistance" means any tangible or intangible item provided by any agency of the United States Government to a foreign country, including any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government, and includes foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

(3) UNITED STATES SECURITY SECTOR ASSISTANCE.—The term "United States security sector assistance" means the policies, programs, and activities the United States Government uses to—

(A) engage with foreign partners and help shape their policies and actions in the security sector;

(B) help foreign partners build and sustain the capacity and effectiveness of legitimate institutions to provide security, safety, and justice for their people; and

(C) enable foreign partners to contribute to efforts that address common security challenges.

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